

## Remarks/Arguments

### **I. Introductory Remarks**

Claims 1-28 were originally presented. Claims 1-26 and 28 were canceled and claims 29-56 were added in the Preliminary Amendment filed on November 15, 2001. Claims 33-35, 39, 44, 49-51, and 55 are canceled herein and new claim 57 is added herein. Accordingly, claims 27 and 29-32, 36-38, 40-43, 45-48, 52-54, 56 and 57 are presently pending.

### **II. The Rejections of the Claims Pursuant to 35 U.S.C. § 112, Second Paragraph**

Claims 27 and 29-60 have been rejected pursuant to 35 U.S.C. § 112, second paragraph, as being indefinite because it is unclear what components qualify as the apparatus and because the claims imply that a resin bound peptide is an apparatus. The claims have been amended herein to more clearly delineate the apparatus of the invention. In particular, independent claims 27 and 41 have been amended herein to more clearly indicate that the apparatus comprises a reaction vessel containing both a set of first peptides and a set of second peptides. Applicants believe that these changes to claims 27 and 41 address the concern expressed in the Office Action that a resin bound peptide was being claimed as an apparatus because the claims of the invention now set forth basic physical parameters of an apparatus.

The amendments to the claims are clearly supported in the application in that the originally filed apparatus claim specified a set of first peptides and a set of second peptides to be reacted together, and the specification as a whole, including the examples, clearly discloses that the peptides are to be reacted together in a reaction vessel.

Similarly, new claim 57, which is added herein, specifies that the reaction vessel contains the set of second phase peptides and an aqueous solution comprising the solid-phase bound first peptides. The aspect of the invention wherein the solid-phase bound first

peptides are contained in an aqueous solution is disclosed throughout the specification, but particularly in originally filed claims 1.

Thus, the rejection of claims 27 and 29-32, 36-38, 40-43, 45-48, 52-54, and 56 as indefinite pursuant to 35 U.S.C. §112(b), second paragraph, may be properly withdrawn.

### **III. The Rejections of the Claims on the Basis of Nonstatutory Double Patenting**

Claims 27 and 29-60 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,326,468. A terminal disclaimer is filed herewith to obviate these grounds of rejection of claims 27 and 29-60.

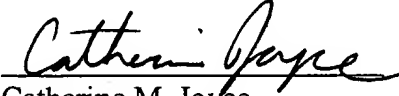
Claims 27 and 29-60 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over copending Application No. 09/987675. A terminal disclaimer is filed herewith to obviate these grounds of rejection of claims 27 and 29-60.

### **VIII. Concluding Remarks**

Having now fully responded to all outstanding rejections, Applicants respectfully submit that the present application is in condition for Allowance, and earnestly solicit early notice of such favorable action. The Examiner is respectfully invited to contact the undersigned with respect to any issues regarding this application.

Respectfully Submitted,

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